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APR 11 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

April 11, 1994

Mr. William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, D.C. 20554

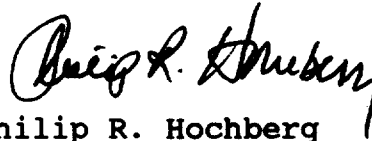
Re: Comments of National Hockey League in PP Docket No. 93-21

Dear Mr. Caton:

On behalf of my client, the National Hockey League, I am filing with your office an original and nine copies of the Comments of the National Hockey League in the Commission's Further Notice of Inquiry in PP Docket No. 93-21.

Should you have any questions concerning the above, please communicate directly with the undersigned.

Sincerely,



Philip R. Hochberg

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Implementation of Section 26 of the
Cable Television Consumer Protection
and Competition Act of 1992

PP Docket No. 93-21

Inquiry into Sports Programming
Migration

COMMENTS OF THE NATIONAL
HOCKEY LEAGUE IN RESPONSE
TO THE COMMISSION'S FURTHER
NOTICE OF INQUIRY

The National Hockey League ("NHL" or "League") submits these comments in response to the Commission's Further Notice of Inquiry, dated March 11, 1994. We respectfully invite the Commission's attention to the Comments and Reply Comments filed by the NHL on March 29, 1993, and April 12, 1993, respectively, in response to the Initial Notice of Inquiry, and incorporate the substance of those earlier filings herein.

In its Interim Report, released on July 1, 1993, the Commission concluded that:

"The record shows that [with few exceptions] professional hockey has not been broadcast on national television since before 1980. It therefore cannot be said that hockey has migrated from broadcast to cable on the national level. Indeed, it is questionable whether NHL games would have a national outlet absent the growth of cable television." (Interim Report at 23-24.)

With respect to local telecasts, the Commission concluded that the "slight decline" in local broadcasts was not "a cause for concern" and noted that "hockey is played at the same time as far more popular sports" and "appear[s] to have difficulty competing for audience with professional football, professional basketball, college football, college

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basketball and other events occurring during the fall and winter months." (Id. at 25.) The Commission reiterated these findings elsewhere in its Interim Report. (Id. at 39.)

The NHL submits that the findings and conclusions of the Commission's Interim Report remain valid and should be incorporated into its Final Report. We address below the specific matters outlined in the Commission's March 1994 notice.

1) NHL Structure and Organization

The National Hockey League is a joint venture organized as an unincorporated, not-for-profit association. Its principal office is in New York City, with other offices in Toronto and Montreal, Canada.

The NHL presently consists of twenty-six teams, eight of which are located in Canada and eighteen in the United States. Since the filing of the 1993 comments, two new teams have been added to the League: the Florida Panthers, based in Miami, Florida, and the Mighty Ducks of Anaheim, based in Anaheim, California. In addition, the Minnesota North Stars have relocated from Minneapolis-St. Paul to Dallas, Texas and are now known as the Dallas Stars.¹

In addition to the expansion of the League and the relocation of the North Stars, the League has realigned to promote a conference-based playoff format. The two conferences (formerly the Prince of Wales and Campbell Conferences) have been renamed the Eastern and Western Conferences. Each Conference includes two divisions, the Atlantic and Northeast Divisions in the Eastern Conference and the Central and Pacific Divisions in the Western Conference.

In addition to the realignment, the playoff format has been changed for the current season. Sixteen teams will continue to qualify for the playoffs, but will be seeded differently from the past. Previously, playoffs were seeded on a divisional basis, with the regular season division champion playing the fourth-place team in the division, and so forth. Under the new format, eight teams will qualify from each Conference and will be

¹A complete list of NHL teams is attached as Exhibit A. We limit our comments to the eighteen teams based in the United States. A chart showing the current divisional and conference affiliation of each of the Clubs is attached as Exhibit B. (A press release showing this information accompanied the NHL's 1993 Reply Comments.)

seeded first through eighth on the basis of their regular season records.² Thus, teams from different divisions will almost certainly play each other early in the playoffs. This new format, which is consistent with the playoff format in other sports, is expected to enhance fan interest in non-divisional opponents and thereby improve the League's ability to market professional hockey.

2) Current NHL Telecasting Patterns

(a) National

The NHL has expanded its national broadcast package for the current season. As in previous years, the All-Star Game was televised on NBC, and last year's five-week ABC package has been expanded to include a sixth week. The ABC package now covers the last three weeks of the regular season and the first three weeks of the Playoffs. In each of the six weeks, regional coverage will be provided, with respect to which the League incurs significant production costs. A total of over 20 games will be broadcast by the ABC network over conventional television to various regions of the country during the six weeks of the ABC telecasts, a significant increase over the total number of games in last year's package.

With respect to national cable telecasts, the NHL has also expanded its arrangement with ESPN. In addition to distributing 25 regular season games on the primary ESPN service, an additional 75 regular season games will be shown nationally on the newly-initiated ESPN2 Network. Thus, NHL fans in markets served by ESPN2 have access to 100 national NHL cable telecasts, in addition to the games televised by ABC and any games televised by a local NHL team.

(b) Local

With respect to local telecasts, the current breakdown of over-the-air telecasts for the eighteen U.S.-based clubs is set forth at Exhibit C. That data reveals that the number of local over-the-air telecasts of NHL games has increased, even allowing for the effect of the expansion teams. In the current season, 53 home games and 263 away games will be televised by the eighteen U.S.-based clubs. If the expansion teams are excluded, the totals are 41 home games and 245 away games, an increase of 2.5 percent over last year.

²The only exception is that the two division champions will automatically receive the top two seeds, even though one or more other teams in the Conference may have a better regular season record.

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The comparable totals for last year were 39 home games and 240 away games. While cable remains the predominant means of distributing NHL games at the local level, there is even less evidence of "migration" than there was one year ago.

In its Further Notice of Inquiry, the Commission sought comment regarding the use of pay-per-view television by the Chicago Blackhawks and Minnesota North Stars. With respect to those matters, we incorporate the material at pp. 14-15 of the League's 1993 Comments, and at pp. 6-8 of the 1993 Reply Comments. With respect to New York Rangers telecasts, we respectfully refer the Commission to the 1993 Comments of Madison Square Garden Corp. at pp. 5-11, and the NHL's 1993 Reply Comments at p. 7. Although the Rangers no longer broadcast a limited number of games on over-the-air television, virtually all of their games are now available on cable.

* * * *

In many respects, however a simple focus on numbers misses the mark. As the Commission recognized in its Interim Report, sports operates in a highly competitive entertainment market. Sports leagues have no preordained right to have their product televised, whether by broadcast, cable or otherwise. The NHL's inability to obtain a national broadcast package before last year is a reflection of how the market valued the NHL's product. In the absence of cable television, there is every reason to think, as the Commission found in its Interim Report, that the NHL would be without national distribution. Nothing in the extensive record developed to date remotely suggests to the contrary.

If the NHL is ultimately to succeed on broadcast television in the United States, it will not happen overnight. Instead, it will take years of building an audience base, so that viewers become aware of and attuned to the NHL on broadcast television. In the meantime, the League and its clubs must be free to generate exposure and revenues through the use of cable television. We repeat, however, the commitment made last year: Within the parameters of sound business practices and consistent with current contractual commitments, the NHL will continue to make all reasonable efforts to obtain a national broadcast arrangement for future seasons.

3) Comments Regarding Chairman Markey's Concerns

In his letter of July 22, 1993, Chairman Edward Markey of the House Telecommunications and Finance Subcommittee identified six matters on which he

believed further inquiry was appropriate. To the extent those concerns relate to the NHL and were not previously addressed, we respond to them here.

The relative growth of sporting events on cable as opposed to broadcast television since 1980 should come as no surprise. Prior to 1980, sports was televised on broadcast television or not at all, and there is accordingly much more room for growth on cable than on broadcast television. Moreover, because cable is able to respond to much more specialized audiences -- as it is intended to -- sports like hockey that have had difficulty attracting a large national audience have been able to obtain coverage on cable television which would otherwise have been unavailable. Again, the growth of sports on cable television does not represent migration, but simply the workings of competitive television and entertainment makers.

The use of pay-per-view television in the NHL is extremely limited and entirely local. Although the NHL will certainly explore the prospects offered by new technologies, the League's focus is directed at improving the attractiveness of its national cable package and developing a broadcast television package for future seasons. We submit, however, that a pay-per-view package that has the effect of expanding viewer choice, by making additional games available, should be deemed pro-consumer and entirely unobjectionable.

Similarly, the effect of new technologies should be to enhance the range of choices available to viewers, as well as to expand the opportunity for sports like hockey to obtain significant television exposure. However, the NHL regards broadcast television exposure as particularly valuable and does not intend to rely on emerging technologies to the exclusion of broadcast television. Certain new technologies, such as HDTV, may be particularly well suited for hockey and may enhance its attractiveness on broadcast television.

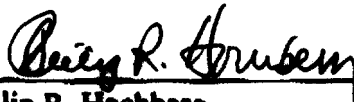
Finally, with respect to sports antitrust exemptions, the NHL adheres to the views it expressed in 1993. (Comments at 19, Reply Comments at 9.) Every commentator addressing this issue last year recognized that for over 30 years, the Sports Broadcasting Act has advanced the interests of fans and consumers by enhancing the ability of sports leagues to market national broadcast packages. There is no basis in this record to modify the 1961 Act; to the contrary, any repeal or modification would have the effect of fragmenting the sale of television rights and would almost certainly result in fewer games on broadcast television and could hamper the NHL's ability to once again obtain a significant presence on national broadcast television.

4) Summary and Conclusions

NHL television patterns give no comfort to those who advance a theory of sports migration. Rather, those patterns are those of a League engaged in fierce and ongoing competition with other sports and entertainment products. Over the past decade-and-a-half, the NHL has responded to these market forces. The record, insofar as the National Hockey League is concerned, provides no basis for any legislative or regulatory action and the Commission should resist vigorously any pressure to the contrary.

Respectfully submitted,

NATIONAL HOCKEY LEAGUE



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Dated: April 11, 1994

EXHIBIT A

NHL MEMBER CLUBS

Team

Mighty Ducks of Anaheim
Boston Bruins
Buffalo Sabres
Calgary Flames
Chicago Blackhawks
Dallas Stars
Detroit Red Wings
Edmonton Oilers
Florida Panthers
Hartford Whalers
Los Angeles Kings
Montreal Canadiens
New Jersey Devils
New York Islanders
New York Rangers
Ottawa Senators
Philadelphia Flyers
Pittsburgh Penguins
Quebec Nordiques
St. Louis Blues
San Jose Sharks
Tampa Bay Lightning
Toronto Maple Leafs
Vancouver Canucks
Washington Capitals
Winnipeg Jets

Home City

Anaheim, California
Boston, Massachusetts
Buffalo, New York
Calgary, Alberta (Canada)
Chicago, Illinois
Dallas, Texas
Detroit, Michigan
Edmonton, Alberta (Canada)
Miami, Florida
Hartford, Connecticut
Los Angeles, California
Montreal, Quebec (Canada)
East Rutherford, New Jersey
Uniondale, New York
New York, New York
Ottawa, Ontario (Canada)
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Quebec City, Quebec (Canada)
St. Louis, Missouri
San Jose, California
Tampa, Florida
Toronto, Ontario (Canada)
Vancouver, British Columbia (Canada)
Washington, D.C.
Winnipeg, Manitoba (Canada)

EXHIBIT B

NHL CONFERENCES AND DIVISION, 1993-94

EASTERN CONFERENCE

Atlantic Division

Florida
New Jersey
New York Islanders
New York Rangers
Philadelphia
Tampa Bay
Washington

Northeast Division

Boston
Buffalo
Hartford
Montreal
Ottawa
Pittsburgh
Quebec

WESTERN CONFERENCE

Central Division

Chicago
Dallas
Detroit
St. Louis
Toronto
Winnipeg

Pacific Division

Anaheim
Calgary
Edmonton
Los Angeles
San Jose
Vancouver

EXHIBIT C

LOCAL OVER - THE - AIR TELECASTS BY U.S. - BASED NHL TEAMS

		<u>1992-93</u>		<u>1993-94</u>
	<u>Home</u>	<u>Away</u>	<u>Home</u>	<u>Away</u>
Anaheim	--	--	11	9
Boston	1	40	3	39
Buffalo	0	30	0	30
Chicago	0	0	0	0
Dallas	0	25*	3	27
Detroit	17	12	11	18
Florida	--	--	1	9
Hartford	0	0	0	0
Los Angeles	0	10	3	5
New Jersey	0	0	0	0
New York Islanders	0	0	0	0
New York Rangers	0	0	0	0
Philadelphia	0	26	0	23
Pittsburgh	0	20	4	16
St. Louis	13	25	11	29
San Jose	8	22	4	25
Tampa Bay	0	10	2	13
Washington	0	20	0	20
TOTAL	39	240	53	263
TOTAL	39	240	41	245
(Excluding 1993-94 Expansion Teams)				

* Dallas franchise played in Minnesota in 1992-93